8

G. R. S. App. F. IX-4]

194/ -

File No. 15-41

Previous References.

(CS.)

Serial Nos. 25-30

Later References.
CS 46-46-142

PRESERVED

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 6.

8 60. (E)

Part B for

SUBJECT.

Amendment of Regn. laws
Sec. 14 and 46 of the Mysore Co-operative Land Mortgage Bank Ltd.

To,
The Regr of C.S.
(SC 20)
No. A.F. B919 D/26-1-43

Govt consider that
there is no need for these amendments

B.P. Krishna
10/3/43.

G.R.S. III—3]

909
A27

ROUTINE NOTES

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Extract from the Inspection Report of the Registrar Branch

1) As the file relating to the amendment of byelaws No 6 (1) and 46 of the Lagos Central Cooperative Bank Limited is not available here, the A+T Branch will be requested to obtain a duplicate copy from the Registrar and send it to Law Section for opinion. If agreed

2nd T.R 3096/vol

2) Law Section) 2nd PP 3096/

3) 2nd ASR 11/1/ PP 11/1

4) A+T. Branch for kind compliance and return

2nd T. R. 1/1/vol

5) The file dealing with the amendment of the byelaws of the Bank re the admission of minors as members of the L.C.C. Bank was sent to the Law Section in 1941 and does not seem to have been returned by that Branch. The file contained a previous correspondence Cf. 47-40 on the subject. Attempts to trace out the file having now been found unsuccessful. It is proposed to obtain a copy of the letter from the Registrar and take further action as suggested by the Law Section. Dft 2nd for advice

2nd 7/9/42 Jolly

6) Jones 8/9/42

WD 078—GPB—30,000—25-7-40

N. B.—*should routine notes be written on small slips, the notes must be copied or slips pasted on this form.*

10 SEP. 1942

81.28) AR 1769 9.9.42 2nd = Ryks.

Calls & a Copy of letter in A/1 as it is not readily traceable in the Registrar's Office

G.R.S. III—3]

909 / 912 / AF. 2

ROUTINE NOTES

[To be used only for notes, requisitions, etc., not intended for permanent record.]

GEN. & R.T. SECTT. 7 SEP. 1942

OFFICE OF THE MINISTER FOR EDUCATION
Date 7-9-42
No. 313

Subd

1) The minister for Education desires that the question of permitting guardians of minors to be members of Land mortgage Banks be expedited

Mohiuddin
PA
7.9.42

Gen Secy)

2) Any references

7/9/42

7/9

Letter No AF 1769 dated 9-9-42 from the Registrar Co-op. calling for a copy of the letter dated 28/7/41

Letter No 2988 dated 16-9-42 from the Registrar Co-op. forwarding copy of the letter called for

3) It is submitted that the main file concerned a previous correction bearing 47-40(1-2). The extract from the file register for 1940-41 does not give any clue to the subject matter now under correspondence. It is therefore necessary to call for copies of correspondence of the previous file

No O

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

WD 078—GPB—30,000—25-7-40

By order of the Govt of Madras letter dated 23/5/41 from the President of L. M. Bank refd to in the letter of the 28th July 1941. in favor of. Hence the history of the correspondence. A draft calling for the same is submitted

10 June

26/9

81. 27) M-2044 dt. 24-9-42 2 to Regr of Cs.

Calls for copies of certain Correspondence

Letter No 3936/Cs. dated the 13th Oct 42 from the Registr Cs forwarding copies of the Correspondence called for

1/1 The correspondence received is arranged in chronological order & neatly and placed below for perusal. The file may now be sent to the Law Section for remarks on the ~~letters~~ of the registrar ~~&~~ amending bye laws. A copy of the bye laws of the Bank is also put up herewith for reference. Subs

19/10

2/ A brief summary of the proposals made by the Regr Cs in his letters and in connection with the proposed amendments of the orders given passed in his letter dt 21.1.41, may be put up in the form of a note for ready reference before taking action as suggested at A as the points on which the Law Section have to be consulted have to be indicated by

18/10

13) In his letter dated 30-11-40 the Registrar of Cooperative Societies forwarded a copy

Serial No.

Secretary
of letter from the ~~Registrar~~ L.C. Bank re the amendment of the byelaws No 45 and 46 for admitting minors as members of the Bank through their legal guardians and the transfer of loans to their names.

The Bank represents that there was some difficulty in the transfer of shares of the deceased members to their minor heirs and that the amendment of byelaw No 4 would therefore be necessary. The other question relates to the transfer of loans to other members. The Bank represents that in case of calamities or otherwise of certain individuals members it has not been possible to repay the loans due to the Bank and that provision is necessary for the transfer of shares of such members to those who were willing to bear them.

4) The Registrar did not support the amendments but suggested 1) the reference of the byelaws No 4 back to the general body and 2) the refusal to approve the amendment of the byelaws No 46.

5) Govt in their reply dated 21/1/41 suggested that as the byelaws No 16(a) and No 85 met their requirement, no amendment of byelaw No 4 was necessary and that, as the amendment of byelaws No 46 would help neither the agriculturists to redeem his debt and save the property to himself nor the Bank in recovering the loans, the amendment could not be accepted

NOTE—Cont. Sheet.

WD 04155- GI'D—55,000—23-10-41

5

1439

Amendments to Bye laws of the Land Mortgage Bank

File No. of 194 . General and Revenue Secretariat

Serial No.

6. The Bank again represents for a reconsideration of their attitude to the amendments urging further grounds and in support of both the amendments but the Registrar has met the arguments of the Bank and stated that ~~recommended to Govt~~ the byelaws need not be amended.

Submitted as directed - Reference para 12

5/10/42

17 The old file having been misplaced, ~~lost~~ the same has now been made up - Before deciding the question raised thereon, the opinion of the present Regr of C.S may be obtained in the matter. (Refer paras 7 & 8)

Govt Sy)

Sy. 27.10

18 Please see margl. obsn.

19. vide marginals - Ys

29/10

GENERAL SECRETARY. 27 OCT. 1942 1649

No 84 of 30/10/42

Sy

Office of the Registrar of Co-operative Societies 30-OCT. No. 2563

To forwarded un officially with Compts, to the Regr, Cooperative Societies for favour of furnishing his opinion -

By order

K. Ramachandra

Jr. General Secretary

912 V 1439 6

General and Revenue Secretariat | C8 File No. | of 194 . | [App. F. III-2

Serial No.

46936
13-11-42

Returned with compliments.

21) Both the amendments to the byelaws passed by the general body of the Bank are urged by the Bank on the main ground that the amendments would make it possible for the Bank to admit minors to membership and grant them loans and to transfer loans already due by individual borrowers of the Bank to others, who may be admitted to membership. This presupposes that the Bank would continue to grant loans to individuals direct. But it has long given up the issue of loans to individuals direct and in fact is prohibited from lending to individuals direct under the proviso to byelaw No.41, in areas served by primary land mortgage societies. As there are land mortgage societies already in nearly 65 taluks and sub-taluks and as the policy is to establish land mortgage societies and not grant loans direct to individuals, there is no need for these amendments in the Central Land Mortgage Bank. On the other hand, there may be some need for such amendments in the case of the byelaws of primary land mortgage societies and they may be considered on merits by the Registrar when any primary land mortgage society proposes such amendments to its byelaws.

22) In the circumstances, I agree with my predecessor that there is no need for the amendments urged for reconsideration by the Bank.

GENERAL SECRETARY 1 - NOV 1942

Registrar of Co-operative Societies.

NOTE—Cont. Sheet.

WD 04155—GPD—55,000—23-10-41

Amendment of the Bye Laws of the Land Mortgage Bank

1639/AF

CG File No. 15 of 1941. | General and Revenue Secretariat

Serial No.

23) If approved the opinion of the Financial Secretary will be asked and he will be informed that the Bank may be told that Govt are unable to agree to accept the amendment proposed. Draft prepared

by 16/11/41 BK

24) As the Bye laws of the Land Mortgage Bank stand at present, nowhere is it explicitly stated that minors nominees, heirs or legal representatives of deceased members could be admitted as members of the Bank, though by implication and inference from Bye law no 85 it could be presumed that such a thing is permissible under Bye law 16(a). But Bye law 4(1) specifically requires that the members of the Bank shall consist of persons who have attained the age of majority and are legally capable of entering into a contract. Thus, it was contended by the Bank that the provisions of Bye laws 16(a) & 85 could not be reconciled with Bye law 4(1), as they were inconsistent with each other. and unless that Bye law 4(1) requires to be amended so as to clearly provide for the admission of minors through legal guardians

Serial No.

Bank in his office letter no A 7 5324/CS 41-40-2 dated 21.1.1941 addressed to the Registrar of Cooperative Societies, it was intimated that Govt considered that the existing provisions under Bye-laws 16(a) and 85 are quite sufficient and no amendment of Bye-law no 4 as proposed by the Bank was therefore necessary. Unfortunately the Connected papers are not traceable, to know the exact reasons on which such a reply was based. The present Registrar has given advanced a totally different line of arguments against the proposed amendment of Bye-law no 4. He says that, since the Bank is not granting loans to individuals any longer and in fact is prohibited from granting loans direct to individuals in areas served by Primary Agl Societies (which are working in 65 Taluks & Sub-Taluks) under proviso to Bye-law no 41, there is not much need to amend Bye-law no 4 as suggested by the Bank. Further in Registrar's letter no 1113 CS dated 28-7-41, it is stated that the Bank had granted loans direct to individuals only in his unofficial note dated 13.11.42

NOTE—Contn. Sheet.

WD 64155—GPB—55,000—23-10-41

Serial No.

31 Cases out of which 5 loan accounts had been closed, and coercive proceedings had been instituted in 12 Cases and only 14 Cases remained.

4) Thus when the policy of the Bank is not to grant loans to individuals & when in such Cases no grant loans in 65 Tehs & Sub Tehs, Covering a major area of the State, it is for consideration whether there is need to amend Bye law no 4 as proposed. The opinion of the Registrar may perhaps be accepted and the proposal negatived

2) As regards the proposed amendment of Bye law no 46 the Registrar has given some reasons in his letter dated 30.11.1940 (Hindi) and 28.7.1941 (Hindi) against accepting the proposed amendment. He has stated that since a provision for transfer of mortgaged property would militate against the very object of the Land Mortgage Scheme is helping the ryot to save his lands. But it is not in every case that such a thing happen. It is only in such Cases when the members find it difficult to manage and continue repayment of the loan, and desire to transfer the

Amendments Bye Laws of the
Ke 39 C. M. Bank Ltd
AF

Serial No.

liability and property to others than the Bank would permit such transfer. Whether to permit such transfer or not, rests with the Bank and hence there does not seem to be any ~~serious~~ objection for accepting the amendment as proposed. It is stated that such a practice is in vogue in Madras.

2) The present Registrar however says in his unofficial note that there is no necessity even for this amendment of Bye-law 46 as loans are not being granted to individuals. If this view is accepted, then the proposal to amend this Bye-law also may have to be rejected

3) The Registrar however states that there may be need for such amendment in the case of the Bye-laws of the Primary Land Mortgage Society and he would consider them on merits if any primary Society proposes such amendment. Of course this could be done

2) For orders

Genl Secy) 14/12

GENERAL SECRETARY
15 DEC. 1941
3712

30/ The present Registrar also agrees that there is no need for the amendments of the Byelaws of the Central L. M. Bank. The Board of amending the Byelaws of the

NOTE—Contn. Sheet.

WD 04155—GPB—55,000—23-10-41

Amendments Bye Laws of the Land Mortgage Bank.

G. File No. 1439/B77 of 194 . General and Revenue Secretariat.

Serial No.

primary societies has not come up for consideration now —

3) There seems to be no need to reconsider the orders so far already passed in the matter

Minutes seen

The Registrar may be asked to send a draft

17/12

17/12

28-12-42 put up a D.O. letter

29/12

Not subs for appt

2/1/43

6/1/43

29.

To K. Subba Rao Esq. B.A. B.L.

Registrar of Co-op. Societies

D. No. 3683 A7 8-1-43

Requests him to discuss this question with the Minister for Education at a very early date.

The Minister for Edn was pleased to instruct that the views and suggestions as in the Unofficial note of the Registrar dated 13.11.42 may be accepted and provision may be made in the Bye-laws of the Primary Land Mortgage Societies whenever such Societies propose such a change in the Bye-laws. The Registrar will be intimated accly

(Gene Secy)

Draft according

13/1/43

16/1

TYPE SECTION - 7 JAN GEN. SECTT.

OFFICE OF THE MINISTER FOR EDUCATION Date 22-12-42 No. 3040

GENERAL SECRETARY 15 JAN. 1943 6360

Dft Subs for above

19/1/43

22/1

done
22/1/43

ING SECTION
25 JAN. 1943
& RV. SECTT.

30

The Registrar of CS.

A. H. 3919/CS. 15-41-30 dt 26-1-43.

States that there is no need for such amendments ~~of bonafide~~, the Registrar CS may consider on their merits such amendments to the bye laws when proposed by any primary Land Mortgage Societies and make the necessary provision in the bye laws of such Societies.

GEN. & I. T.
- 4 FEB. 1943
AGR. & SHEEP BRANCH

ID

Appendix F G—1]

SUBJECT.....

.....

.....

Section 65
File No. 15-41
Serial No. 25

Diary No. of letter replied to.....

No. A 71769

General and Revenue Secretariat

( )

the . *19* .

To The Registrar B.S.

Sir

I am directed to request you ~~kindly~~ at an early date to forward a copy of letter No 1113/C1. dated the 28th July 1941 in the matter of amending bylaws No 4 and 46 of the Mysore Central Co-operative Land Mortgage Bank Ltd. in the matter of admitting minors or their guardians as members of the Bank.

Date of issue 9-9-42

Signed by ...

I have etc

for Secretary

List of enclosures.....

Copied by .....

Examined by.....

GOVERNMENT OF MYSORE

1074 A 7.

No. ....2988 C. S.

Encl one.

DEPARTMENT OF CO-OPERATION

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

Telegraphic Address: "CO-OPERT" Bangalore

17 SEP. 1942

Dated Bangalore, ...16th Septr..... 1942

CR 15-41-26

FROM K.Subba Rao, Esq., B.A.LL.B.,
Registrar of Co-operative Societies in Mysore,
BANGALORE.

GENERAL SECRETARY 17 SEP. 1942

To

J. Appaji Gowda, Esq., B.A. (Hons)
General Secretary to Government, Bangalore.

Sir,

As desired in your letter No.A.F.1769/C.S.15-41 dated 9th September 1942, I have the honour to forward herewith a copy of this office letter No.1113/C.S. dated 28th July 1942 in the matter of amending byelaws No.4 and 46 of the Mysore Central Co-operative Land-Mortgage Bank,Ltd., for admitting minors or their guardians as members of the Bank.

I have the honor to be,
Sir,
Your most obedient servant,

K. Subba Rao

Registrar.

27

from the Registrar C.S

~~This office~~ Letter No.5458 dated 30-11-1940 ~~addressed~~ to the Secretary to the Government of Mysore, General Department, Bangalore

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I have the honour to forward, herewith copy of letter No.S.C. 430 dated 25-11-1940 together with a copy of the enclosure received from the Secretary, The Mysore Central Co-operative Land Mortgage Bank, Ltd., Bangalore City in the matter of the amendments to the byelaws of the Bank passed by the members at the annual general meeting of the Bank held on 26-11-1940 and to state as follows:-

In byelaw No.4 (i) it is proposed to add a proviso (provided, however, that minors may be admitted as members through legal guardians) to enable the Bank to admit minors to membership through their legal guardians. It is stated that the byelaws as they stand at present do not permit the admission of minors as members of the Bank and that in the case of decreed loan grantees it would be necessary to admit minor heirs of the deceased individual members to membership so that the loans may be continued. I think the existing byelaws provide for the admission of minors to membership. 16 (a) provides that a deceased members' nominee, heir or legal representative may be admitted to membership. In byelaw 85 it is specifically provided that "minor heirs or legal representatives of deceased members if admitted to membership under byelaw 16 (a) shall have no voting power." These provisions in the byelaws clearly indicate that the existing byelaws do provide for the cases referred to by the Bank. If however, it is considered that a specific provision for admitting minors through their legal guardians is necessary, it is desirable that the proposed proviso should be made to cover only cases coming under 16 (a), so that the Bank may not have power to admit any minor through his legal guardian as member as complication would ^otherwise arise. In this view of the case the proviso will have to read as follows:- Provided, however, that minor nominees, heirs or legal representatives of deceased members may be admitted as members through their legal guardians but they will not be eligible to raise any loans from the Bank during the period of their minority." The byelaw amendment may therefore be referred back to the general body for their reconsideration.

2. The other amendment proposed to byelaw 46 permitting transfer of loan to a purchaser of the mortgaged property is very undesirable

P.T.O

undesirable. The Land Mortgage Scheme is meant soley for the liquidation of prior debts of agriculturists to redeem their debts and save their properties to themselves. The proposed amendment will neither help the indebtdd agriculturists to redeem their debts nor the Bank to recover its dues, but only those who profit by the purchase of the mortgaged lands; instead of their having to pay the sale value of the lands in one lumpsum, they will be enable to obtain the properties by payments of the same in easy annual instalments to the Bank. Thus the very object of the Land Mortgage scheme will be frustrated. I do not think that we need copy whatever exists in Madras. The proposal for the amendment of the byelaw may therefore be negatived.

"C O P Y"

jsp.5/10.

For Registrar.

Letter No.S.I. 430 dated 25th November 1942 from the Secretary Mysore Central Co-operative Land Mortgage Bank, Ltd., Bangalore City to the Registrar of Co-operative Societies in Mysore, Bangalore.

I am directed to forward, herewith a copy of Resolution No.6 passed at the Eleventh Annual General Meeting of the Bank held on 26-10-1940 in the matter of the amendment of Byelaws Nos4 (i) and 46 of the Bank, and to state as follows:

Byelaw No.4 (i), as it stands at present, does not permit the admission of minors as members of the Bank. Such a provision is very necessary specially as the Bank has in the initial stages issued loans direct to individual members and in the event of the death of the members leaving only minor sons, difficulty is felt in transferring the shares to the sons in the absence of a provisin in the Byelaws authorising the admission of minors as members through their guardians. In the case of the primary land mortgage banks in Madras, provision has been made for admission of minors as members.

As regards the amendment to Byelaw No.46, there have been applications from some of the direct grantees of loans for the transfer of loans to others who are members of the Bank or who may be admitted as members, owing to their incapacity to continue to manage the properties and regularly repay the loans obtained due to change of circumstances, such as calamities, old age etc. In such cases, a provision in the Byelaws permitting such transfers of loans subject to certain conditions is found to be very necessary. The Byelaws of the Madras Primary Banks provide for such transfers of loans to other members.

The Byelaws as they stand at present and as they would be after amendment are shown in the enclosed statement.

I am to request that the approval of Government may kindly be obtained to the resolution of the General Body.

"C O P Y"

jsp.5/10.

For Registrar.

The Mysore Central Co-operative Land Mortgage Bank, Ltd , Bangalore City

---

Resolution No.6 passed at the Eleventh Annual General Meeting of the Bank held on 26-10-1940.

---

6. Subject: Consideration of amendments to the byelaws of the Bank:-

The Chairman having explained the object of the proposed amendments and the necessity therefor, they were unanimously passed as follows:-

I. Byelaw No.4 (i) - After this byelaw, add thefollowing proviso:

Provided, however, that minors may be admitted as members through legal guardians.

II. Byelaw No.46 - Read the present byelaw No.46 as 46 (a) and insert the following as byelaw No.46 (b):

The Board of Directors may permit a member to alienate his mortgaged property and to transfer his loan to a person who is a member of the Bank or to one whom the Board is willing to admit as a member, provided the transferee pays the entire arrears up to date, if any, and agrees to execute the necessary bonds and binds himself to pay the further instalments regularly. It shall be open to the Bank, for reasons to be recorded, while accepting the transfer and admitting the transferee as a member, to decline to exonerate the transferor-mortgagor from liability to the debt under the mortgage deed executed by him.

Sd/- C. Suryanarayana Rao
Secretary.

"C O P Y"

jsp.5/10.

For Registrar.

Statement shewing the amendments to Byelaws Nos.4 (1) and 46 of the Mysore Central Co-operative Land Mortgage Bank,Ltd., as passed by the General Body at their meeting held on 26-10-1940.

Existing Byelaw.	Byelaw after the amendment.
I. Byelaw No.4: The members of the Bank shall consist of :-	I. Byelaw No.4: The members of the Bank shall consist of:-
(1) Persons, whether agriculturists or non-agriculturists, residing or carrying on business within the limits of the State, who have attained the age of majority and are legally capable of entering into a contract;	(1) Persons, whether agriculturists or non-agriculturists, residing or carrying on business within the limits of the State, who have attained the age of majority and are legally capable of entering into a contract;
II.	Provided, however, that minors may be admitted as members through legal guardians.
II. Byelaw No.46: Long-term loans granted by the Bank shall be repayable in equal yearly instalments, which shall not be less than 15 or more than 30 as may be fixed by the Board of Directors, and shall not be liable to be recalled except under the provisions of Section 59 of the Mysore Co-operative Societies Act of 1929. Nothing in this byelaw shall be considered to preclude the borrower from repaying his loans wholly or in part at any earlier time.	II. Byelaw No.46 (a) Long-term loans granted by the Bank shall be repayable in equal yearly instalments, which shall not be less than 15 or more than 30 as may be fixed by the Board of Directors, and shall not be liable to be recalled except under the provisions of — Section 59 of the Mysore Co-operative Soieties Act of 1929. Nothing in this byelaw be considered to preclude the borrower from repaying his loans wholly or in part at any earlier time. (b) The Board of Directors may permit a member to alienate his mortgaged property and to transfer his loan to a person who is a member of the Bank or to one whom the Board is willing to admit as a member, provided the transferee pays the entire arrears up to date, if any, and agrees, to execute the necessary bonds and binds himself to pay the further instalments regularly. It shall be open to the Bank, for reasons to be recorded, while

P. T. O

Existing Byelaw	Byelaw after the amendment.
	While accepting the transfer and admitting the transferee asa member, to decline to exonerate the transferor-mortgagor from liability to the debt under the mortgage deed executed by him.

Sd/-

Secretary,
Mysore Central Co-operative Land Mortgage Bank, Limited.

"C O P Y"

Registrar.

"Copy"

For Registrar, Co-operative Societies
in Mysore.

Bangalore
10-10-42

Letter No.A.F.5324/C.S. 47-40-2 dated 21-1-1941 from the Secretary to the Government of Mysore, General Department, Bangalore to the Registrar of Co-operative Societies in Mysore, Bangalore.

In reply to your letter No.5458/C.S. dated the 30th November 1940 re: the amendment of byelaws of the Mysore Central Co-operative Land Mortgage Bank re: the admission of minors as members of the Bank and the permission to transfer a loan to a purchaser of the mortgaged property, I am directed to state that in respect of the proposed amendment of byelaw No.4 (i), Government consider that the existing provisions under byelaws 16 (a) and 85 are quite sufficient and that no amendment of byelaw No.4 as proposed by the Bank is therefore necessary and as regards the proposed amendment of byelaw No.46 re: the transfer of loans to a purchaser it will help neither the agriculturist to redeem his debt and save the property to himself nor the Bank in recovering the loan. Hence there is no need to amend this byelaw either;

Under these circumstances, Government regret that they are unable to approve of the two amendments suggested by the Bank.

"C O P Y"

jsp.10/10.

For Registrar.

From the Registrar of Co-operative Societies

This office letter No.1113 C.S. dated 28-7-1941 addressed to the Secretary to Government, General Department, Bangalore.

Re: amendments of Byelaws No.4 (i) and 46 of the Mysore Central Co-operative Land Mortgage Bank, Ltd.,

---

Adverting to Government Order No.A.F.5324/C.S. 47-40-2 dated 21st January 1941 declining to approve of the amendments to Bye-laws No.4(i) and 46 of the Bank, I have the honour to forward, herewith, for the information and orders of Government, copy of letter No.S.I. 1069 dated 23rd May 1941 together with copies of the enclosures thereto, received from the President of the Mysore Central Co-operative Land Mortgage Bank, Ltd., and to state as follows:-

2. The main grounds urged for the amendment of Byelaw No.4 (i) for admitting minors to membership through their legal guardians are:-

(i) according to the existing byelaw (4), the membership of the Bank is confined to persons who have attained the age of majority and are legally capable of entering into a contract; hence even a minor nominee of a deceased member cannot become a member;

(ii) under byelaw 16 (a), a nominee, heir or representative of the deceased member may be admitted on application but as a minor nominee, heir or representative cannot by himself apply, the share of the deceased member cannot be transferred to the minor nominee and he cannot therefore become a member.

(iii) Though it is presumed in byelaw No.85 that minor nominees of deceased members could be admitted to membership under 16 (a), this is not operative in view of the phrase 'on application' in byelaw 16 (a) and also due to the ineligibility of minors to become members under byelaw 4.

(iv) Proceedings before the Registrar whether by way of dispute under Section 43-A or an application under Section 60 would

P.T.O

35

would not affect the interests of the members of the family who are not members of the society.

(v) Minors should not be deprived of membership of the Land Mortgage Scheme.

3. Byelaws 4 to 11 clearly refer to membership on application i.e., 'inter vivos', by action of parties. Byelaw 16 (a) provides for admission to membership by operation of law as provided for in Section 22 of the Mysore Co-operative Societies' Act. By the transfer of the share under the aforesaid Section, the nominee, heir or legal representative becomes a share holder of the Bank i.e., a member. But if the nominee is unwilling to become a member the value of the share has to be refunded to him. But in the case of minor nominees, it follows that the Bank cannot pay the money to him, as he cannot give a valid and legal discharge. In such cases and particularly when the share-holding involves no further liability-the liability being limited and the share value being fully paid up - minors can and should be admitted to membership. In Circular No.13 (c) dated 9th March 1912 of the Government of India, it has been stated that "though applicants for registration must be over the age of 18 years, the maintenance of this qualification among members after registration is not expressively provided for and the question of relations of a society to the minor heirs of deceased members, is, subject to the provisions of Section 22, left to the operation of the ordinary law." Thus the contention that the admission of minors under byelaw 16 (a) is against byelaw 4 (i) is untenable.

4. The next point urged is that proceedings before the Registrar whether by way of a dispute under Section 43-A or an application under Section 60 of the Co-operative Societies' Act would not affect the interests of the family who are not members of the society. In respect of disputes under Section 43-A, it may be noted that in such proceedings "member, past member or person claiming through a member, past member or deceased member" - including, as has been held by the High Court, subsequent alienees can be included as parties and the proceedings therefore will be binding on them and moreover specific provision has been made in

in Rule 16 (ii) for the appointment of a guardina to a minor for the conduct of the dispute. The same holds good in the case of applications and proceddings under Section 60. Section 81 of the Act specifically lays down that the other provisions of the Act apply to Co-operative Land Mortgage Banks in so far as they are not inconsistent with the special provisions applicable to the Land Mortgage Banks. There is therefore no shbstance in this contention.

5. The next ground urged is that manors should not be deprived of the benefits of the Land Mortgage Scheme. Admitting minors through their legal guardians and granting loans is beset with complications. Both in the interests of the minors and the Bank, it is undesirable to grant loans through their guardians. In one of the Conferences of the All India Registrars of Co-operative Societies, it was resolved that only minor heirs of deceased members may become members and not minors through their guardians. The Bank is not granting any loans to individuals; it lends only to Land Mortgage Societies and they in turn lend to their individual members. It cannot be understood how admitting minors to membership through their legal guardians would enable the Bank to grant loans to them in the face of the long established practice of not granting loans to individuals direct. It has also been specifically provided in Byelaw 41, that the Bank shall not lend direct to any person residing within the jurisdiction of a primary Land Mortgage Society.

6. In the light of the foregoing, there is no need to amend byelaw 4 (i) as proposed by the Bank. I may add that the byelaws of the Madras Central Co-operative Land Mortgage Bank do not provide for the admission of minors through their guardians.

7. With regard to the proposed amendmant of byelaw No.46 so as to provide for the transfer of loans to purchasers of mortgaged properties, it will have to be reiterated that the Bank has long ceased to grant loans to individuals. It is stated that there are cases and there would be many more in future in which the borrowers would like to transfer their liability as also the mortgaged properties to others willing to take them up. It is only in 31 cases that the Bank had granted loans direct to individuals,

individuals, 5 of these loan accounts have been closed; in 12 cases coercive proceedings have been instituted and they are in various stages of disposal and there remain only 14 cases. It looks as though the Bank wants the amendment not because that in any one of these 14 cases, has there been any application for transfer but it expects such applications to come. A provision for transfer of mortgaged properties and the loans is undesirable from all points of view and militates against the very object of the Land Mortgage Scheme viz., helping the ryot to save his lands. Such a provision will enable unscrupulous persons to compel the loan grantees of the Land Mortgage Bank to transfer the properties and loans to them and the benefit of the Land Mortgage Scheme will be enjoyed by these persons. In these circumstances, there is neither any real necessity for the amendment nor is it desirable and conducive for the better working of the Bank.

"C O P Y"

jsp.16/9.

For Registrar

Letter No. S.I.1069 dated 23-5-1941 from the President, Mysore Central Co-operative Land Mortgage Bank Ltd., Bangalore City, to the Registrar of Co-operative Societies in Mysore, Bangalore.

With reference to correspondence ending with your Memo No.7977/C.S. dated 25-1-1941 forwarding a copy of General Secretary's letter No. A.F.5324/C.S. 47-40-2 dated 21-1-1941 stating that Government were unable to approve of the amendments to byelaws Nos.4 (i) and 46 suggested by the Bank, for the reasons stated therein, I have the honour to state that the matter was referred to Mr. M.P. Somasekhara Rao, B.A., LL.B., Director of the Bank, for furnishing legal opinion as to whether the proposed amendments to the byelaws were not necessary as observed and for reasons explained in the General Secretary's letter referred to above. A copy of the legal opinion furnished by Mr. Somasekhara Rao is enclosed for information. He has fully discussed all aspects of the case and is of opinion that the amendment to bye-law No.4 (i) as passed by the General Body of the Bank is necessary. The matter was then placed before the Board of Directors at their meeting held on the 18th instant, and it was resolved that both the proposed amendments were quite necessary and Government may be moved to reconsider their orders and accord sanction to the amendments. A copy of the resolution of the Board is enclosed for perusal. I therefore request you to kindly move Government to sanction the amend-ments proposed by the Bank.

In connection with the amendment to byelaw No.46, the Board was also of opinion that the transfer of loans might be restricted to agriculturists only. I request that this fact may also be brought to the notice of Government.

// Copy //

Jayaramu Rao

Secretary,

RR Mysore Central Co-op: Land Mortgage Bank Ltd.

Rlz

Legal opinion furnished by Mr. M.P. Somasekhara Rao, B.A., LL.B., re: amendments to byelaws Nos.4 (i) and 46 of the Mysore Central Co-operative Land Mortgage Bank Ltd., Bangalore City.

The purport of byelaw 4 (i) is not quite accurately stated in the office note. The relevant portion of the byelaw is as follows:-

"4. The members of the Bank shall consist of (i) persons whether agriculturists or non-agriculturists, residing or carrying on business within the limits of the State, who have attained the age of majority and are legally capable of entering into a contract" &c.

This means that no persons can be a member unless he is a major and not subject to legal disability and not that a person should be a major and legally capable of entering into a contract <u>at the time of his original admission</u>. Byelaw 14 (e) contemplates removal from membership of a person who <u>becomes</u> legally or mentally disabled. This fact lends support to my interpretation of byelaw 4 (i).

Byelaw 16 (a) permits of the nominee, heir or representative in interest of a deceased member being admitted as a <u>share-holder</u> of the Bank on application and on payment of an admission fee. Though the expression share-holder is used, it is obviously intended to have the same meaning as "member". There is no such thing as a non-member in the byelaws and it should be noticed that the expression "membership" is employed in byelaw 85 with reference to persons admitted under byelaw 16 (a).

In my opinion, the power to admit nominees, heirs or representatives of a deceased member under byelaw 4 is controlled by byelaw 4 and no person who is not qualified under byelaw 4 is for membership can be admitted as a share-holder under byelaw 16 (a).

The portion of byelaw 85 which is quoted in the office note (page 2) is based on an assumption that minors can be admitted under byelaw 16 (a). To my mind, that assumption is not correct and cannot by itself have the effect of excluding admissions under byelaw 16 (a) from the scope of byelaw 4 (i).

At any rate, it cannot be denied that there is considerable room

to doubt whether it is permissible to admit minor as a share-holder under byelaw 16 (a). The proposed amendment is necessary if only to remove that doubt.

I may add that in my note regarding the proposal to constitute a 'B' class of members I have indicated the necessity for an amendment of the byelaws so as to make it permissible to admit minors (represented by their guardians) as members. As I have stated in that note, proceedings before the Registrar whether by way of a dispute under Section 43 or an application under Section 60 of the Co-operative Societies Act would not affect the interests of members of the family who are not members of the Society. (I have also referred to Section 29 of the Act). In the case of adult members of the family who are not already members, it is possible to get over this difficulty by admitting them as members. In the case of minors, this course would not be possible unless the byelaw were amended so as to make it possible to admit minors as members.

I may add that in Madras, provision is made for the admission of minors.

With great respect I dissent from the view that the proposed amendment of byelaw 4 (i) is unnecessary.

Re: the proposed amendment of byelaw 46, the questions of principle and expediency involved may be discussed at a Board meeting.

// Copy //

Secretary,
Mysore Central Co-op: Land Mortgage Bank Ltd.

RR

Resolution passed by the Board of Directors of the Mysore Central Co-operative Land Mortgage Bank Ltd., Bangalore City, at their meeting held on 13-5-1941.

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5. Subject:- Memo No.7977/C.S. dated 25-1-1941 from the Registrar of Co-operative Societies forwarding a copy of letter from the General Secretary to Government stating that the amendments to the byelaws Nos. 4 (i) and 46 passed by the General Body of the Bank were not necessary.

The President said that the amendments were passed by the General Body of the Bank at their meeting held on 26-10-1940 and when they were sent to Government for approval, the Government considered that both the amendments were unnecessary.

Mr. M.P. Somasekhara Rao explained that the view taken by the Government that the amendment to byelaw No.4 (i) was unnecessary as the existing provisions under byelaws Nos.16 (a) and 85 were quite sufficient for the purpose, did not seem to be correct, as the provisions contained in these two byelaws were inconsistent with the provision of byelaw No.4 (i), and said that the amendment recommended was quite necessary, and the provisions under byelaws Nos. 16 (a) and 85 were not themselves sufficient for the purpose unless there was provision for admission of minors as members, in byelaw No.4 (i)

The Revenue Commissioner said that the advantages of the Land Mortgage Scheme should not be closed to agriculturists who were minors and that a provision for admission of such through their guardians was quite necessary.

As regards the admendment to byelaw No.46, the President said that there were some cases and were bound to be many in future where due to various reasons such as change in family circumstances or advanced age grantees of loans found it impossible to manage the properties and continue repayment of the loan, and desired to transfer the liability and properties secured to others who were willing to take them over and whom the Bank could easily admit as members. To deny this facility to the grantee would work as a great hardship. The Bank would then be obliged to recall the loan and bring his lands to sale The proposed amendment would save trouble both to the Bank and the grantees and was thus very necessary.

Mr. B.R. Krishnamachar suggested that the transfer should not be allowed to be made in favour of persons who are not agriculturists and

that it should be strictly restricted to agriculturists only.

It was thereupon resolved that the amendments to byelaws 4 (i) and 46 as passed by the General Body were quite necessary and that Government be requested to reconsider the orders passed and approve of the amendments and that as regards the transfer of loans, Government may restrict it to agriculturists only, if deemed necessary.

/// Copy ///

Secretary,
Mysore Central Co-op: Land Mortgage Bank Ltd.

RR

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Appendix F G—1]

SUBJECT .....

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Section 65
File No. 15-41
Serial No. 27

No. A.F 2044

Diary No. of letter replied to.....

To
The Registrar b&s

Sirs-

With refer to your letter No 29857/C1 dated 16-9-42 forwarding a copy of your letter of the 28th July 1941 & the question of amending the byelaws of the Nagpur Central Coop. L. M. Bank Ltd I am directed to request you will be to forward immediately two copies of the endorsements ~~letters~~ correspondence in the matter

1) Letter No 5058 dated 30-11-40 from the Registrar b&s together with copies of enclosures if any to the letter

2) Nil opin letter No A F 5324/b&s 47-41-2 dated 21-1-41 to the Registrar of Cos.

3) Letter No S.J 1069 dated 23/27-41 from Registrar L.M. Banks to the Registrar of Cos/ with copies of its enclosures

I have etc
for Secretary

General and Revenue Secretariat

( )

the *193* .

Date of issue 29.9.42

Signed by Mr. J.R

List of enclosures.....

Copied by .....

Examined by.....

WD 0521—GPB—30,000—12-3-37

1439 / A B 43

GOVERNMENT OF MYSORE.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

Ex@. No. 3936 C 3 Dated Bangalore, 10th October 1942

Three letters and connected enclosures

13

C.S. 15-41-28.

GENERAL SECRETARIAT 14 OCT. 1942

15 OCT. 1942 FOREST Br

From

K.Subba Rao, Esq., B.A.LL.B.,
Registrar of Co-operative Societies in Mysore,
Bangalore.

To

J.Appaji Gowda, Esq., B.A. (Hons)
General Secretary to Government of His Highness the
Maharaja of Mysore, Bangalore.

Sir,

As desired in your letter No.A.F.2044/C.S.15-41-27 dated 29th September 1942 I have the honour to forward herewith copies of the undermentioned correspondence.-

1) Letter No.5458 dated 30th November 1940 from the Registrar of Co-operative Societies together with copies of enclosures ~~if any to the letter~~
General Secretary's
2) ~~This office~~ letter No.A.F.5324/C.S.47-40-2 dated 21st January 1941 to the Registrar of Co-operative Societies.

3) Letter No.S.I.1069 dated 23rd May 1941 from the President, Land-mortgage Bank to the Registrar of Co-operative Societies with copies of its enclosures.

I have the honor to be,
Sir,
Your most obedient servant,

K. Subba Rao

Registrar.

44

Appendix F G—1]

SUBJECT.....

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Section G.S

File No. 15-41

Serial No. 29

Diary No. of letter replied to. 4439

D.O. No. A.F. 3683

To The Secretary

General and Revenue Secretariat

( )

the *19* .

Dear Sir

Date of issue 8th Jan 43

Signed by T. R.

With reference to the correspondence ending with your unofficial note No. 4693 G.S. dated 13-11-42 re the amendment of the Explanation 4 and 4b of the Ceylon Income Tax Ordinance I am desired to request you discuss this question with to ~~refer~~ to the Minister for Education at a very early date ~~in this matter~~

Yours sincerely

List of enclosures.....

Copied by.....

Examined by.....

To

K. Subramaniam Esq. B.A. LL.B

Registrar G.S.

Copy to the Officer the matter for Edn

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE. 45

General and Revenue Secretariat.

No. A.F. 3919/CO 15-41-30 *Bangalore, dated* 26th January 1943

FROM

The Secretary to the Government of His Highness the Maharaja of Mysore.
General Department.

To

The Registrar of Cooperative Societies in Mysore,
Bangalore.

Sir,

With reference to your letter No.1113/C.S.dated the 28th July 1941 and subsequent correspondence ending with your letter No.3936/C.S.dated 13th October 1942 in the matter of amending the bye-laws 4(1) and 46 of the Mysore Central Cooperative Land Mortgage Bank, Ltd., I am directed to state that Government consider that there is no need for these amendments as there are land mortgage Societies - already in nearly 65 Taluks and Sub Taluks and as the policy is to establish such societies in other Taluks as and when found necessary and not grant loans to individuals direct from the Central Bank. If, however, there is need for such amendments in the byelaws of primary land mortgage societies the Registrar of Cooperative Societies, may, consider on their merits, such amendments to the byelaws when proposed by any primary land mortgage societies and make the necessary provision in the bye-laws of such Societies.

I have the honour to be,
Sir,
Your most obedient servant,

D+J
Secretary to Government,
General Department.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

46

General and Revenue Secretariat.

Bangalore, dated 26th January 1943

No. AF. 3919/cs 15-41-3.

FROM

The Secretary to the Government of His Highness
the Maharaja of Mysore.
General Department.

To

The Registrar of Cooperative Societies in Mysore,
Bangalore.

Sir,

With reference to your letter No.1113/C.S.dated the 28th July 1941 and subsequent correspondence ending with your letter No.3936/C.S.dated 13th October 1942 in the matter of amending the bye-laws 4(1) and 46 of the Mysore Central Cooperative Land Mortgage Bank, Ltd., I am directed to state that Government consider that there is no need for these amendments as there are land mortgage Societies - already is nearly 65 Taluks and Sub Taluks as the policy is to establish such societies in other Taluks as and when found necessary and not grant loans to individuals direct from the Central Bank. If, however, there is need for such amendments in the byelaws of primary land mortgage societies the Registrar of Cooperative Societies, may, consider on their merits, such amendments to the byelaws when proposed by any primary land mortgage societies and make the necessary provision in the bye-laws of such Societies.

I have the honour to be,
Sir,
Your most obedient servant,

Extra

(Sd) T. R. M
Secretary to Government,
General Department.

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Appendix F. G.—1]

47

SUBJECT.....

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3 copies

Section 65

File No. 15-41

Serial No. 30

Diary No. of letter replied to.....

No. A.F. 3919

To

General and Revenue Secretariat

( )

the *194* .

The Registrar of C.S.

Sir

Date of issue 26th January 43

With reference to your letter No 1113/C.S. dated the 28th July 1941 and subsequent correspondence ending with your letter No 3936/C.S. dated 13-10-42 in the matter of amending the sections 4(1) and 46 of the Ceylon Co-operative Societies Ordinance No. 16 of 1935 I am directed to state that Government for ~~advance~~ consider that there is no need ~~to consider~~ the amendments, ~~in view of the proposal~~ as there are Land Mortgage Societies already ~~operating under the C.C.S. Scheme~~ functioning in nearly 65 Talukes of the Island and the Policy of the Government which prevents the grant of loans to individuals direct from the Central Bank. However, there is need to establish such Societies and not grant loans to individuals direct from the Central Bank.

Signed by. Secretary T.R.

List of enclosures.....

Copied by.....

Examined by.....

WD 04161—GPB—60,000—24-10-41

for such amendments in the bylaws

of primary land mortgage societies, ~~as~~

~~the society grants loans to individuals,~~

the Registrar of Cooperative societies, may,

~~if he thinks fit~~, consider, on their merits, such amendments to the bylaws.

when proposed ~~made~~ by any primary

land mortgage societies and make the such provisions
in the bye laws of such Societies,

I have etc

Sd/

for Registrar

Sd/